

### CHAPTER 3 OTHER COURT FEES

#### DOCUMENT FEES

The following fees are established by statute:

For preparing a transcript or copy of any record, legal size or letter size page including a page only partially covered with writing. [IC 33-19-6-1] . . . . . \$ 1.00

For each certificate under seal attached in authentication of a copy of any record, paper or transcript. [IC 33-19-6-2] . . . . . \$ 1.00

For preparing or recording a transcript of a judgment to become a lien on real estate. [IC 33-19-6-3]. . . . . \$ 3.00

#### LOCAL USER FEES

A city or town user fee fund is established in each city or town having a city or town court for the purpose of supplementing the cost of various program services. The city or town fund shall be administered by the fiscal officer of the city or town.

The city or town fund consists of the following fees collected by a clerk under this article:

1. The pretrial diversion program fee.
2. The alcohol and drug services program fee.
3. The law enforcement continuing education program fee.
4. The deferral program fee.
5. The drug court fee.

[IC 33-19-8-3(a)]

1. Pretrial Diversion Program Fee - Applies to criminal actions. [IC 33-19-5-1(c)]  
The clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires the payment of those fees by the accused person.  

Initial User- <del>s</del> Fee .....	\$ 50.00
Monthly User- <del>s</del> Fee .....	\$ 10.00
2. Alcohol and Drug Services Program Fee - Applies to criminal, infraction and ordinance violations [IC 12-23-14-16]  

Not to exceed .....	\$ 400.00
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The clerk shall collect the alcohol and drug services program fee set by the court under IC 12-23-14-16 in a city that has established an alcohol and drug services program.

3. Law Enforcement Continuing Education Program Fee - Applies to any action in which a defendant is found to have committed a crime, violated a statute defining an infraction, or violated an ordinance of a city or town. [IC 33-19-6-7(c)]

Law Enforcement Continuing Education Program Fee ..... \$3.00

The clerk shall collect a law enforcement continuing education program fee of three dollars (\$3.00).

4. Deferral Program Fee - Applies to infractions or ordinance violations. [IC 33-19-5-2(e)]

The clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation.

Initial User-~~s~~ Fee - May Not Exceed ..... \$ 52.00

Monthly User-~~s~~ Fee - May Not Exceed ..... \$ 10.00

5. Drug Court Fee – Applies to actions where a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense. [IC 12-23-4.5]

Not to exceed ..... \$500.00

#### STATE USER FEES

Alcohol and Drug Countermeasures Fee - Applies to actions in which a person is found to have committed an offense under IC 9-30-5 (driving while intoxicated), violated a statute defining an infraction under IC 9-30-5; been adjudicated a delinquent for an act that would be an offense under IC 9-30-5) if committed by an adult; and the person-~~s~~ driving privileges are suspended by the court as a result of a finding. Also, in each action in which a person is charged with an offense under IC 9-30-5 and, by a plea agreement or agreement of the parties that is approved by the court:

1. Judgment is entered for an offense under:

- A. IC 9-21-8-50;
- B. IC 9-21-8-52;
- C. IC 7.1-5-1-3; or
- D. IC 7.1-5-1-6; and

2. The defendant agrees to pay the alcohol and drug counter measures fee. [IC 33-19-6-10]

Alcohol and Drug Countermeasures Fee ..... \$ 200.00

Drug Abuse, Prosecution, Interdiction and Corrections Fee - Applies to persons convicted of offenses under IC 35-48-4 (offenses relating to controlled substances). [IC 33-19-6-9]

At least ..... \$200 and not more than \$1,000

#### PAYMENT TO COUNTY AUDITOR (MONTHLY) - STATE USER FEES

IC 33-19-7-4(e) states:

"The clerk of the city or town court shall monthly distribute to the county auditor the following fees:

1. Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
2. Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(7), IC 33-19-5-2(b)(4) and IC 33-19-5-3(b)(5)."

## PAYMENT TO AUDITOR OF STATE (SEMIANNUALLY) - STATE USER FEES

IC 33-19-7-4(d) states:

"The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following fees:

1. Twenty-five percent (25%) of the drug abuse, prosecutions, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
2. Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(7), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5)."

The drug abuse, prosecution, interdiction and corrections fees and alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(7), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5) are required as additional fees to court costs by IC 33-19-6-9 and IC 33-19-6-10, respectively. (See Foregoing Article - State User Fees.) These fees shall be retained by the court clerk and transmitted semiannually to the Auditor of State along with the 55% of the court costs due the state, the highway worksite zone fees, safe schools fees, domestic violence fees, and automated record keeping fees.

## SAFE SCHOOLS FEE

In each criminal action in which a person is convicted of an offense in which the possession or use of a firearm was an element of the offense, the court shall assess a safe schools fee of not less than two hundred dollars (\$200) and not more than one thousand dollars (\$1,000). The court shall consider the person's ability to pay the fee in determining the amount to assess. [IC 33-19-6-16.3]

## HIGHWAY WORKSITE ZONE FEE

The clerk shall collect a highway worksite zone fee of fifty cents (\$0.50) on all criminal, infraction, or ordinance violation cases that are traffic offenses as defined in IC 9-30-3-5. However, if the criminal action, infraction or ordinance violation involves exceeding a worksite speed limit (as provided in IC 9-21-5-11) or failure to merge (as provided in IC 9-21-8-7.5) and the judge orders the clerk to collect the fee for exceeding the speed limit or failure to merge, the clerk shall collect a highway worksite zone fee of twenty-five dollars and fifty cents (\$25.50). [IC 33-19-6-14]

The clerk of the city or town court shall semiannually distribute highway worksite zone fees collected to the Auditor of State along with the State's share of court costs and 25% of any State user fee collections.

## DOCUMENT STORAGE FEE

On all actions except seatbelt violations, the clerk shall collect a document storage fee of two dollars (\$2) which shall be remitted to the city or town fiscal officer on a monthly basis for deposit in the clerk's record perpetuation fund. [IC 33-19-6-18.1]

## AUTOMATED RECORD KEEPING FEE

On all actions except seatbelt violations, the clerk shall collect an automated record keeping fee of five dollars (\$5) which shall be remitted to the Auditor of State semiannually. [IC 33-19-6-19] [Beginning July 1, 2003, the fee will be seven dollars (\$7) until July 1, 2009, when the fee will be reduced to four dollars (\$4).]

### JURY FEE

In each action in which a defendant is found to have committed a crime, violated a statute defining an infraction or violated an ordinance of a municipal corporation, the clerk shall collect a jury fee of two dollars (\$2). [IC 33-19-6-17]

Furthermore, IC 33-19-8-5 requires two dollars (\$2) of every deferral program fee collected to be accounted for as a jury fee.

All jury fees are to be remitted to the county auditor on a monthly basis.

### BAIL BONDS (10% CASH BONDS) - ADMINISTRATIVE FEE

The court may admit a defendant to bail and require the defendant to execute a bail bond by depositing cash or securities with the clerk in an amount not less than ten percent (10%) of the bail. A portion of this deposit, not to exceed ten percent (10%) of the monetary value or fifty dollars (\$50.00), whichever is the lesser amount, may be retained as an administrative fee. [IC 35-33-8-3.2]

### CRIMINAL COURT COST FEES

For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120.00). [IC 33-19-5-1(a)]

In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

1. A document fee. [IC 33-19-6-1 thru 3]
2. A marijuana eradication program fee. [IC 33-19-6-6]
3. An alcohol and drug services program fee. [IC 33-19-6-7(b)]
4. A law enforcement continuing education program fee. [IC 33-19-6-7(c)]
5. A drug abuse, prosecution, interdiction, and correction fee. [IC 33-19-6-9]
6. An alcohol and drug countermeasures fee. [IC 33-19-6-10]
7. A child abuse prevention fee. [IC 33-19-6-12]
8. A domestic violence prevention and treatment fee. [IC 33-19-6-13]
9. A highway worksite zone fee. [IC 33-19-6-14]
10. A deferred prosecution fee. [IC 33-19-5-1(b)]
11. A document storage fee. [IC 33-19-6-18.1]
12. An automated record keeping fee. [IC 33-19-6-19]
13. A late payment fee. [IC 33-19-6-20]

### INFRACTIONS AND VIOLATIONS OF ORDINANCES - COURT COST FEES

For each action that results in a judgment for a violation constituting an infraction, or for a violation of an ordinance of a city or town, the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70.00). [IC 33-19-5-2(a)]

In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

1. A document fee.
2. An alcohol and drug services program fee.
3. A law enforcement continuing education fee.
4. An alcohol and drug countermeasures fee.
5. A highway worksite zone fee.
6. A deferred prosecution fee.
7. A jury fee.
8. A document storage fee.
9. An automated record keeping fee.
10. A late payment fee. [IC 33-19-5-2]

### CIVIL PROCEEDINGS

For each civil action except: (1) proceedings to enforce a statute defining an infraction under IC 34-4-32-4; (2) proceedings to enforce an ordinance under IC 34-4-32-4; (3) proceedings in juvenile court under IC 31-6-4; (4) proceedings in paternity under IC 31-6-6.1; (5) proceedings for adoption under IC 31-3; and (6) proceedings in small claims court under IC 33-11.6, the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100.00). [IC 33-19-5-4(a)]

In addition to the civil costs fees collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

1. A document fee.
2. A document storage fee.
3. An automated record keeping fee. [IC 33-19-5-4(b)]

### SMALL CLAIMS PROCEEDINGS

Each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars (\$35.00). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees if it is required under IC 33-19-6.

1. A document fee.
2. A document storage fee.
3. An automated record keeping fee. [IC 33-19-5-5]

#### BAIL BONDS AND BAIL PROCEDURES

The court may admit the defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal procedures:

1. Require the defendant to execute a bail bond with sufficient solvent sureties or to deposit cash or securities in an amount equal to the bail, or to execute a bond secured by real estate in the county, where thirty-three hundredths (.033) of the true tax value less encumbrances is at least equal to the amount of the bail, or to post a real estate bond. The defendant must also pay the special death benefit fee.
2. Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the circuit court, in an amount not less than ten percent (10%) of the bail. A portion of this deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50.00), whichever is the lesser amount, may be retained as an administrative fee. If the defendant is convicted, the court may retain all or part of the cash or securities to pay fines, costs, fees, or restitution, if ordered by the court.
3. Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
4. Require the defendant to refrain from any direct or indirect contact with an individual.
5. Place the defendant under reasonable supervision of a probation officer or other appropriate public official.
6. Release the defendant into the care of some qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court.
7. Release the defendant on personal recognizance where the defendant shows little risk or non-appearance.
8. Impose any other reasonable restrictions designed to assure the defendant's appearance in court. [IC 35-33-8-3.2]

#### DOMESTIC VIOLENCE PREVENTION AND TREATMENT FEE

IC 33-19-6-13 requires the Clerk of the Court to collect a domestic violence prevention and treatment fee of fifty dollars (\$50.00) on all battery and domestic battery cases where the victim is a spouse or former spouse of the person who committed the offense, is or was living as if a spouse of the person who committed the offense of domestic battery, or has a child with the person who committed the offense of domestic battery.

Such fee is in addition to all other applicable fines and costs and shall be sent to the Auditor of State on a semiannual basis for deposit in the State's Family Violence and Victim Assistance Fund. While IC 33-19-7-4 does not make provision for the remittance of such fee to the State by a City or Town Court, the Division of State Court Administration has advised that the fees shall be remitted directly to the State by the Clerk of the Court. The Auditor of State's Report of Court Costs will reflect the fee.

If your Court collects this fee, please enter the collection on the appropriate lines on the Official Receipt and in the Cash Book.

#### CLERK'S RECORD PERPETUATION FUND

Each Clerk of a City or Town Court shall establish a Clerk's Record Perpetuation Fund. The Clerk shall deposit in the fund all: (1) revenue received by the Clerk for the transmitting of documents by facsimile machine to a person under IC 5-14-3; and (2) document storage fees required under IC 33-9-6-18.1.

Such fees are to be remitted by the Court to the City or Town fiscal officer at the end of each month.

The Clerk of a City or Town Court may use the money in the fund for the preservation of records and the improvement of record keeping systems and equipment. The fund would require appropriation. [IC 33-19-6-1.5]

#### MARIJUANA ERADICATION PROGRAM FEE

IC 33-19-6-6 requires the Clerk of the Court to collect a marijuana eradication program fee set by the court under IC 15-3-4.6-4.1 if:

1. A weed control board has been established by the county under IC 15-3-4.6-1; and
2. The person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

The court may set the fee at no more than three hundred dollars (\$300.00) on such cases. While IC 33-19-7-4 does not make provision for the remittance of marijuana eradication program fees, if collected, the fees will be sent to the County Auditor on a monthly basis for receipt into a County User Fee Fund per instructions from the Division of State Court Administration.

All city and town courts that handle offenses under IC 35-48-4 should determine if the county in which they are located has established a weed control board before setting such fee.

#### LATE PAYMENT FEE

In each action (except a seat belt violation or a violation for unlawful parking in a space reserved for a person with a physical disability) in which a defendant:

1. Is found, in a court that has a local court rule imposing a late payment fee, to have:
  - A. Committed a crime;
  - B. Violated a statute defining an infraction;
  - C. Violated an ordinance or a municipal corporation; or
  - D. Committed a delinquent act;

2. Is required to pay:
  - A. Court costs, including fees;
  - B. A fine; or
  - C. A civil penalty;
3. Is not determined by the court imposing the court costs, fine or civil penalty to be indigent; and
4. Fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:
  - A. The end of the business day on which the court enters the conviction or judgment.
  - B. The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

A court may adopt a local rule to impose a late payment fee on such defendants.

Subject to IC 33-19-6-20(d), the Clerk of the Court that adopts a local rule imposing a late payment fee shall collect a late payment fee of twenty-five dollars (\$25) from such defendants.

Notwithstanding IC 33-19-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty. [IC 33-19-6-20]

The Clerk of the City or Town Court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit such fees distributed by a clerk in the city or town general fund. [IC 33-19-7-4]

#### SEATBELT AND CERTAIN UNLAWFUL PARKING VIOLATIONS

For each seatbelt violation under IC 9-19-10-2, IC 9-19-11-2, or IC 9-19-11-3, a person commits a Class D Infraction. IC 34-28-5-4 allows a court to enter a judgment of up to twenty-five dollars (\$25) on each Class D Infraction.

Furthermore, if a judgment is entered:

1. for a violation constituting:
  - A. a Class D Infraction; or
  - B. a Class C Infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; or
2. in favor of the defendant in any case;

the defendant is not liable for costs. [IC 34-28-5-5]



## DRUG COURT FEE

A city court that has established a drug court under IC 12-23-14.5 may require an eligible individual to pay a fee for drug court services not to exceed five hundred dollars (\$500). The clerk of the city court shall remit such fees monthly to the city fiscal officer for deposit in the city user fee fund. [IC 33-19-6-22 and IC 33-19-8-3]

## BAIL BONDS - FORFEITURE

IC 35-33-8-7 states that, if a defendant;

1. was admitted to bail under IC 35-33-8-3.2(a)(2); and
2. has failed to appear before the court as ordered; the court shall issue a warrant for the defendant's arrest.

In a criminal case, if the court having jurisdiction over the criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under IC 35-33-8-3.2(a)(2) may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit and the bond are subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, and the bond forfeited.

Any proceedings concerning the bond, or its forfeiture, judgment, or execution of judgment, shall be held in the court that admitted the defendant to bail.

After a bond has been forfeited, the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was a justification for the defendant's failure to appear, the court shall immediately enter judgment, without pleadings and without change of judge or change of venue, against the defendant for the amount of the bail bond, and the clerk shall record the judgment.

If a bond is forfeited and the court has entered a judgment, the clerk shall transfer to the state common school fund:

1. any amount remaining on deposit with the court (less the fees retained by the clerk); and
2. any amount collected in satisfaction of the judgment.

## DRUG COURT

A city court having felony, misdemeanor, or juvenile jurisdiction in a city may establish a drug court under the court's operation. Such drug courts may provide certain intervention, treatment and rehabilitation services. A new drug court must be approved by the Indiana Judicial Center and any drug court in operation before July 1, 2002, must be certified by the Indiana Judicial Center. The Indiana Judicial Center regulates such courts. The cost of a drug court may be supplemented out of the city general fund and may be further supplemented by payment from the city user fee fund.

A drug court may apply for and receive gifts, grants, bequests and other forms of financial assistance approved by the court to supplement the court's budget. A city court that has established a drug court may require an eligible individual to pay a fee for drug court services not to exceed five hundred dollars (\$500). The clerk of a city court shall remit such fees monthly to the city fiscal officer for deposit in the city user fee fund. [IC 12-23-14.5]